

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

L. T. TUCKER #132271,

Plaintiff,

NO. 2:19-cv-175

v

HON. PAUL L. MALONEY

DAWN CONNOR, DONALD MANKEE, MAG. MAARTEN VERMAAT  
and NICOLE KAUTZ,

Defendants.

---

L. T. Tucker #132271  
*In Pro Per*  
Baraga Correctional Facility  
13924 Wadaga Road  
Baraga, MI 49908-9204

Raina Korbakis (P49467)  
Assistant Attorney General  
Attorney for MDOC Defendants  
Michigan Department of Attorney General  
MDOC Division  
P.O. Box 30217  
Lansing, MI 48909  
(517) 335-3055

---

**MDOC DEFENDANTS' BRIEF IN  
SUPPORT OF MOTION FOR ENLARGEMENT OF TIME  
TO FILE REPLY TO PLAINTIFF'S RESPONSE**

Rule 6(b) of the Federal Rules of Civil Procedure provides that the Court may, for cause shown, grant an extension of time in which to respond to a plaintiff's complaint. A formal motion is not necessary under Rule 6(b) if the request is made before the expiration of the time originally prescribed. *Blouton v. Pacific Mut. Life Ins. Co.*, 4 F.R.D. 200 (D.C. N.C. 1944). MDOC Defendants Connor, Mankee, and Kautz make this request before the time has expired. If a timely request is made, an extension of time is usually granted on the showing of good cause. *Creedon v. Taubman*, 8 F.R.D. 268 (D.C. Ohio 1947).

In September 2019, Plaintiff L.T. Tucker (Tucker), a *pro se* prisoner confined in the Michigan Department of Corrections (MDOC), filed a complaint under 42 U.S.C. § 1983, naming three MDOC Defendants and alleging mainly First Amendment violations that purportedly took place in July 2019 at Marquette Branch Prison. (ECF 1.) Tucker also moved to proceed *in forma pauperis* (IFP). (ECF 2.) The Court allowed him to proceed IFP (ECF 5) but MDOC Defendants later moved to revoke his IFP status (ECF 20, 21.) MDOC Defendants also moved for summary judgment based on his failure to exhaust (ECF 24, 25); the Court set deadlines for Tucker to respond and gave him until January 30, 2020 “to complete discovery limited to the exhaustion issue only.” (ECF 28, Pg ID 233.) In the meantime, Tucker sent numerous discovery requests to MDOC Defendants, who responded to most of his requests. Tucker asked the Court for more time to complete discovery (ECF 41) but the Court denied that request, although it gave him more time to respond to MDOC Defendants’ summary judgment motion. (ECF 61.) Tucker also moved for leave to file an amended complaint (ECF 55), to which MDOC Defendants objected. (ECF 62.) And he filed an unauthorized sur-reply (ECF 46), which MDOC Defendants opposed. (ECF 58.) In February 2020, the Magistrate Judge issued a report (R&R), recommending denial of the motion to revoke Tucker’s IFP status (ECF 60, Pg ID 445) and MDOC Defendants objected. (ECF 64.)

Tucker recently filed a response to MDOC Defendants’ motion for summary judgment, along with a number of exhibits. (ECF 70.) Counsel for MDOC

Defendants respectfully asks the Court for a 30-day enlargement to review Tucker's response and to prepare an appropriate reply. Delay in responding to his response is not the result of inexcusable neglect by the MDOC Defendants or their counsel. Because of the large volume of prisoner lawsuits handled by the Michigan Attorney General's Office and counsel, including briefing due in April in the Sixth Circuit Court of Appeals, it is not possible for counsel to file an appropriate reply to Tucker's response. MDOC Defendants also contend that granting this motion for a 30-day enlargement of time will not prejudice Tucker, who is serving life in prison.

### **CONCLUSION**

MDOC Defendants respectfully asks the Court for an additional 30 days – or to April 28, 2020 – to file their reply to Tucker's response.

Respectfully submitted,

Dana Nessel  
Attorney General

*s/ Raina Korbakis (P49467)*  
Assistant Attorney General  
MDOC Division  
P.O. Box 30217  
Lansing, MI 48909  
korbakisr@michigan.gov  
(517) 335-3055

Date: March 27, 2020

Korbakis\FED Intake\Tucker 2019-0266389-B\Brf in Sup of Mot for Enlarge